

could be allowed in those instances where there was a showing of immediate and urgent necessity. You see, the doctrine of quick take in these companies is limited to those times when there is that showing of an immediate and urgent necessity.

Ordinarily, I would think that the doctrine of quick take ought not to be granted unless there is that showing. On the other hand, I do not think that any power of eminent domain should in the future be granted to any corporation unless there was a limitation of time in order to do the condemning.

Do not confuse the condemnation power with the operation power. The operation power would follow. This only applies to the time in which the condemnation could be done and our amendment provides for such time as is reasonably necessary in order to do the specific condemning for special purpose or purposes not to exceed three years.

Some have said maybe they could not get a condemnation completed in three years. I think three years affords in most instances ample time in which to do the condemning.

I do not think that authority should be a continuing one. Besides that, there is nothing to prevent the private person or corporation, if they have not completed their condemning within the three years, from getting another act to extend the time. I think this power of eminent domain is a powerful weapon and when it is exercised by private corporations should have some limitations.

As I said before, we do not quarrel with the majority report as far as it goes, but in this area, we thought that there ought to be some reasonable restrictions so that our people would know that if eminent domain power comes to reside in a local subdivision, that those local subdivisions are not going to be let off the beaten track and be allowed to give a definitely continuing authority to any group or association.

I think I have covered the purposes of this amendment, because on the question of quick take, if you will notice our report, it was our intention to leave the matter quick take up to the legislative authority. In this area, I felt that there is a differentiation between public use and sometimes what is known as public purpose. Public use, strictly construed, to me means that the public takes it over and owns it for public use.

Public purpose means something a little different. It means to me that a private

corporation or firm can take it over and use it and own it where the public uses it and gets public benefit and its so-called use is for a public purpose.

If there are any questions, I will be glad to answer them.

[Vice President James Clark assumed the Chair]

DELEGATE J. CLARK (presiding): The Chair recognizes Delegate Macdonald.

DELEGATE MACDONALD: In your presentation, you spent some time on the exercise of this power, the right to grant the power of eminent domain by local governments, but I notice that your proposed amendment is not confined to local governments.

Would you be willing to accept an amendment which would confine this to local governments?

DELEGATE WEIDEMEYER: I do not think it is necessary, Delegate Macdonald, for the reason I first drafted: "No general or indefinitely continuing authority shall hereafter be granted."

I think that language without amendment is broad enough to cover any possibility of local government grants of general domain or general assembly. I think it prohibits both and it was so intended.

It recognizes the right to grant it but it limits it. It cannot go on. When they give them that authority to do their condemning, they must limit the granting of the authority to such time as is reasonably necessary to condemn for that particular project and in any event not to exceed three years.

DELEGATE J. CLARK (presiding): Delegate Macdonald.

DELEGATE MACDONALD: Are public utilities which have this power today similarly limited?

DELEGATE WEIDEMEYER: I do not think all of them are. I think there are some instances in the earlier days when possibly their authority to condemn was a continuing one. And I think some courts have held that where the franchise is sold to another group, and the legislature gives consent, that continuing authority carries on.

DELEGATE J. CLARK (presiding): Would the result of this be to favor those companies now in existence and be to the prejudice of those which may hereafter be created?